

REMARKS

Reconsideration and allowance in view of the foregoing amendments and the following remarks are respectfully requested.

Claims 12 and 16-20 are pending in this application, claims 13-15 having been canceled with this amendment.

The examiner rejected claims 12 and 16-19 under 35 USC § 112, second paragraph, as being indefinite. The examiner noted specific informalities in claims 12 and 19 as the source of the indefiniteness of claims 12 and 16-19. Applicant amended claim 12 to include the word "device" as suggested by the examiner to correct a clerical error. Applicant also amended claim 19 to clarify the meaning. Applicant respectfully submits that claims 12 and 16-19 are now definite in accordance with 35 USC § 112, second paragraph, and requests that this rejection be withdrawn.

Applicant further amended claim 12 based on the original disclosure. This amendment is fully supported by the specification. For example, the examiner's attention is directed to page 5, line 16 of the specification (published PCT) for an example of support for these amendments. Amended claim 12 continues to read on the elected species.

The examiner rejected claims 12, 16, 17 and 20 under 35 USC § 103(a) as being unpatentable over Weissman et al. (US 6,330,885) in view of Corl et al. (US 6,767,327), and further in view of Reindle et al. (IEEE Ultrasonics Symposium 1998, pgs.335-338). Applicant respectfully traverses for at least the following reasons.

The examiner interprets Weissman et al. as disclosing a method of monitoring pressure, with specific reference to sensor 54/54' of the implanted device 32. The examiner further interprets the device of Weissman et al. to include a pair of interdigitated transducers spaced apart over the surface of a piezo-electric substrate that closes a chamber. Applicant respectfully disagrees with this interpretation of the Weissman et al. reference. Weissman et al. does not disclose measuring pressure at all. It simply measures the build-up of accretion on the surface of the device through restenosis. As accretions build up on the surface of the device, its characteristics change, and this is

reflected in the response to the input signal. Furthermore, the Weissman et al. reference does not disclose a piezoelectric substrate that closes a chamber. As one can see from Figures 8 and 9 of Weissman et al., the piezoelectric substrate is located on cantilevered arms. The particular cross-sectional view may give the appearance of a chamber; however, this is not what is disclosed by Weissman et al. The space which is visible beneath the cantilevered beam 80 is not a chamber, and that space is not closed by the cantilevered beam 80. For a beam to be cantilevered, it will be connected to the solid substrate just at one end. That means that the opposite end, the sides, and the underneath of the cantilevered beam 80 must be unsupported. Consequently, the space below and around the cantilevered beam 80 cannot be considered to be a chamber, and the space cannot be said to be closed by the cantilevered beam. Consequently, Weisman et al. is not directed to a method of monitoring pressure within a human or animal body and does not disclose, teach or suggest "an interdigitated transducer on the surface of a piezo-electric substrate that closes a sealed chamber," as recited in claim 12. Claim 20 recites similar features.

Corl et al. and Reindle et al. do not make up for these deficiencies. Furthermore, applicant disagrees that one of ordinary skill in the art would have looked to Corl et al. and Reindle et al. to modify Weissman et al. in order to arrive at the current invention, as claimed. It is unclear why a person of ordinary skill in the art would have taken the device of Weissman et al. that measures restenosis and changed it so as to measure pressure. The measurement of pressure is a completely different function. If you are trying to measure restenosis, you are looking to measure accretions which build up on the device over a period of time. If one were to try to measure pressure at the same time, the pressure measurements would be impossible to measure over a period of time because the accretions also affect the response. Consequently, it would not be possible to measure pressure accurately over a period of time. Therefore, there would not have been any incentive for a person of ordinary skill in the art at the time the current invention was made to look to expand the functionality of the device taught by Weissman et al. to measure pressure. Applicant respectfully submits that one of ordinary skill in the art would have started with a device which is pressure sensitive, rather than the device of Weissman et al. Therefore, Applicant respectfully submits that Weissman et al. would not have provided an appropriate starting point that would have led a person of ordinary skill in the art to the current invention. Therefore, applicant respectfully

submits that claims 12, 16, 17 and 20 are in condition for allowance and requests that the rejection under 35 USC § 103(a) be withdrawn.

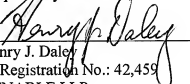
The examiner rejected claims 18 and 19 under 35 USC § 103(a) as being unpatentable over Weissman et al. in view of Corl et al. and further in view of Overall et al. (US 2004/0260346). Applicant respectfully traverses for at least the reasons noted above with respect to base claim 12. Overall et al. does not make up for the deficiencies of Weissman et al. and Corl et al. In addition, one of ordinary skill in the art would not have been motivated to modify Weissamn et al.

Applicant has addressed all of the objections and rejections and respectfully submits that the application is now in condition for allowance. Applicant's representative encourages the examiner to contact him at the below-noted telephone number if it may help expedite the prosecution of this case.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Dated: February 1, 2010

Respectfully submitted,

By 
Henry J. Daley
Registration No.: 42,459
VENABLE LLP
P.O. Box 34385
Washington, DC 20043-9998
(202) 344-4000
(202) 344-8300 (Fax)
Attorney/Agent For Applicant

HJD/elw